8. K. T. Achuthan
9. M. K. Verghese
10. P. Narayana Menon
11. M. I. Paul
12. M. K. Raja
13. P. T. Jacob
14. P. K. Paul
15. P. Sankara Menon
16. Puthur Achutha Menon
17. C. S. Panicker
18. P. Mani
19. Paul P. Mampilli
20. Rao Sahib A. Madhava Prabhu
21. K. S. Raghavan
22. K. Govinda Menon
23. Rao Sahib K. Ayyappan
24. Rao Bahadur T. K. Nayar
25. P. Govinda Menon

Noes—1

1. Mr. P. Kumaran Ezhuthassan

Mr. President: The motion is carried by 25 voting for and 1 against.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* But, Sir, this in a Council of 53 members.

Mr. President: The Bill will be taken up and finally passed tomorrow.

7. The Cochin Criminal Law (Amendment) Bill

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government):* Sir, I beg to move that the Cochin Criminal Law Amendment Bill be read in Council.

Rao Bahadur T. K. Nayar *(Minister for Public Health):* I second it.

Motion put and carried

Secretary to the Council: The title of the Bill is The Cochin Criminal Law Amendment Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Are you explaining the objects?

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government):* Sir, I don't want to speak in detail because this is a matter which has been discussed in detail here when questions and answers were put, and it was not merely answering questions that was done at that time. There were so many other things, such as explaining the position of the Government the necessity for the Bill, the action that was taken, all those things were discussed here, explained here. Anyway, since it is stated that a detailed discussion is necessary, I shall try to briefly state what the provisions of the Bill are. Sections 1 to 11 of the Bill are merely a reproduction of the lapsed Criminal Law Amendment Act, XVI of 1119 and are based upon sections 1 to 15 of the Indian Criminal Law Amendment Act, XIV of 1908 which is still in force in British India. Now with regard to each section, the first section deals with the extent and commencement, the second deals with definitions, the third, power to declare associations unlawful, fourth, the consequences of a person continuing to be a member of an association which is declared unlawful. The other sections are consequential provisions with reference to what follows when an association is declared unlawful, its property, the place where it is being continued, and all that. That is up to and inclusive of section 9. Then section 10 deals with the jurisdiction being barred. Then, section 11 deals with continuance of the association which has been declared unlawful. That finishes one set of the provisions. That is with reference to associations, its properties, its continuance, the place where it is held and its activities. Then, we come to the next series of provisions—section 12 relating to newspapers, books and other documents which are being printed and circulated having the same object in view. Section 13 relates to searches and seizure of such books, newspapers, etc. Section 14 relates to packages coming from outside and circulation inside the State by post or anchal or otherwise being forfeited and being detained and forfeited. Section 15 is also the same. Section 16 is a new section which is not in the Proclamation that was promulgated. That is with reference to the censorship. Therefore, 12 to 15 relate to printing, and publication of newspapers or other documents or books containing such objectionable matter. Then comes section 16. Section 16 stands separately by itself. It was not found in the Proclamation that was promulgated on this subject. That takes in power for censorship. That is, it gives power to Government to address newspapers not to publish certain things or submit to the Government certain classes of literature before they are published in their books or in their newspapers. That is the power given under section 16, clauses *a & b*. One of these sections prescribes that before the thing is published, it must be submitted to Government and what can be published is only what is allowed by the Government to be published, so that the mischief that is intended may not be worked. The mischief is sought to be prevented. If that is done,

LIBRARY ARCHIVES Kerala Legislative Assembly

[Rao Sahib A. Madhava Prabhu]

then some of the books or some of the newspapers which are otherwise good, in other respects good, can be allowed to go among the public. With this power of restricting the kind of literature that could be published, it will be of greater use to the public. Section 17 relates to the power of preventing import of certain documents, the power to prohibit such documents from being imported into our State if they are published outside the State. Section 18 deals with punishment. Section 19 deals with surrender of objectionable documents. If the import or printing of any paper has been prohibited and if any person is in possession of that paper, it must be surrendered to the Government. That is section 19. Section 20 "the provisions this Act shall be in addition to and not in derogation of any other enactment for the time being in force". Only 1st Class Magistrates are given the power to try the offences under this law. The Criminal Law Amendment Act, XVIII of 1122 is to be repealed. That was the Act promulgated by the Proclamation. As soon as this Act comes into force, the Act now in force will stand repealed.

The difference between this Bill and the Criminal Law Amendment Act now in force I have already explained. I shall refer again if necessary to those differences. One main difference is with reference to censorship. The other difference is with reference to one provision that has been added, that is, in the Act which was promulgated by Proclamation, there was no provision for the detention or forfeiture of articles or papers or documents which were passed from person to person otherwise than by anchal, post or by bus. If it was transmitted through persons, human beings, there was no method of preventing that. That has been now remedied by the addition of the words "or by any other means". These are the main differences between this law and the existing law. As I said in the beginning, there is nothing now which we have brought in this Act. All these provisions, every one of them, are contained in one or other of the Acts either here or in British India. As I said, sections 1 to 11 are portions that were in the Criminal Law Amendment Act XVI of 1119.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: It was once part of our law. Is it still there?

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government)*: I said it lapsed. If it is still there, this need not be brought again. If it was there, there is no necessity for this law at all. Since it was removed.. .....

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: How did it happen to go?

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government)*: Those are things better known to the Hon'ble Member. It does not pay to go into all that now. Soon after that was removed, a situation was again created for reviving that law. If it were not removed, perhaps what occurred afterwards would not have occurred. At least some section of the people have shown that the generosity shown by the Government in taking away that from the Statute Book has not been properly appreciated and has been misused. Why I made mention of the Indian Criminal Law Amendment Act is this. Even under the present Governmnet, that is a law which is in the Statute Book and that is being used also. I will show this.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I should like to know whether corresponding provisions to sections 1 to 11 of this law are now in the Act of British India that you referred to.

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government)*: Yes, every one of them.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: The next one, section 12?

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government)*: That corresponds to the section 4 of the Indian Press Emergency Powers Act. Section 12 of our Bill is the one corresponding to section 4 of the Indian Press Emergency Powers Act XXIII of 1931. Then section 13 of our Bill, the power to search and seize, corresponds to section 14 of the Press Emergency Powers Act. Under this section in British India the Provincial Governments have to direct the Magistrates to issue warrants to search, but here that is not so. The power is given to the Police. If a prohibited thing is found, it is not necessary to go to the Magistrate according to our Acts. If any variation has to be made, it is a matter of detail. Whether the Magistrate has to do it or the Police has to do it, is a matter of procedure. Then with regard to the power for censorship. When the Defence of India Rules were in force this was in force, when the war was going on. A similar provision is now found in the Maintenance of Public Order Act I of 1947, (Madras).

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. M. K. Raja *(Mulakunnathukavu):* Is it a Central Act or a Provincial Act?

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government):* It is a Madras Act. That is an Act with which we are familiar. That Act alone was able to bring under control a number of illegal organisations and illegal activities. Next is the prohibition of import and publication of newspapers, that is, section 16 of the Sea Customs Act. It was also in the Defence of India Rules. I said that the Press Emergency Powers Act in British India is still in force. It has been recently used also. A book called—I am referring to a notification issued under that Act proscribing a book in Hindi entitled "Naked dance of Pakistan upon Bengal's chest"—that is the name of the book.

Mr. M. K. Raja *(Mulakunnathukavu):* It was prohibited here also.

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government):* It was prohibited here. It is prohibited in British India under that Act which is still in force. that is, the Criminal Law Amendment Act XIV of 1908. Such a law is necessary under any Government. Because human activities being what they are and they are not revolutionised for the better, these Acts are necessary. Only their application has to be carefully made. That is all. We are only on the question whether such things should be in our Statute. It is on the Statute in British India. I shall read a notification recently issued: "New Delhi, Notification, 25th May 1947. In exercise of the powers conferred by section 19 of the Indian Press Emergeny Powers Act the Chief Commissioner, Delhi, declares to be forfeited to Government all copies wherever found of the book in Hindi entitled "Naked Dance of Pakistan upon Bengal's Chest" written by Sree Suresh Chand Chathurvedi, Agra, published by Messrs Govind Ram Hasa Nand, Nai Sarak, Delhi and printed by Mr. Jagan Nath Prasad Sharma at the Shree Banu Printing Works, 686 Kushal Rai, Delhi, and all other documents containing copies or translation of or extract from the aforesaid book in asmuch as it contains matter of the nature described in clause (*n*) of section 4". It is under the Press Emergency Powers Act. My object in referring to this is simply to show that ours is not a new method of dealing with the situation. This is the only important method resorted to by all Governments, including at present the Government which is at the helm of affairs in India. Of course that the situation justifies the promulgation of such laws, has been so well known to the Members of this House, so that I don't think it necesary for me to reiterate those things. For these 10 days or 11 days of the sitting here, almost every day this matter has come up for discussion. It was only the other day that the Hon'ble Minister for Public Health made a statement detailing the emergent situation which arose and which necessitated the prohibition of the Printing of two newspapers. That is also more or less connected with this. I submit, therefore, that the House may be pleased to pass this Bill into law.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Mr. President, I oppose this measure and in doing so, I shall preface my observation by telling the sponsors of the Bill, whoever they may be, to kindly bear in mind the memorable words which Mareechan, Ravana's uncle, told him when he was commanded by that great Rakshasa to do some behest of his, namely, to carry away Sita. The Sanskrit verse need not be mentioned here. Its free rendering in English will be as follows.—

"Men who talk pleasant innanities are plenty, but those who speak the truth be it pleasant or unpleasant are very few and those who listen to the truth are indeed fewer."

This I request, Sir, may kindly be borne in mind by our Ministers especially.

I fortunately belong Sir, to that class of persons. I have got a bad habit of speaking the truth, be it pleasant or unpleasant, be the number that listen to me small or great. But it has been a creed with me, Sir, and as my experience advances from day to day I am getting more and more confirmed in that habit of mine. Whatever be the number of persons, who agree with me, Sir, I do not propose to depart from my habit of calling a spade a spade.

Mr. President: We are on the Cochin Criminal Law (Amendment) Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I am also on it, Sir. I am sorry I am thought to be otherwise. And so I oppose this Criminal Law (Amendment) Bill to which my attention has been called by the Chair. I know, Sir, that I am on an errand which will not please any because though what I am going to say hereafter my observations on this amending Bill reflect the true state of affairs as felt by me and many others. I am sure, Sir, that I will not be able to carry conviction to a majority of this House—the Ministerialists—because, they are determined not to be convinced. They may feel, Sir, that I am right in my odservations But conviction in the shape of getting support, in the shape of raising of hands against the Bill I am sure, Sir, I will not suceed in creating in their predetermined minds. I do not very much

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. Kumaran Ezhuthassan]
mind that either. Therefore, Sir, let me with this preface, go to the Bill in its various ramifications.

Now, Sir, it required a poking from me to have some sort of an explanation about or elucidation of this Bill from the sponsor of the measure, the Hon'ble Chief Secretary to the Government of Cochin. I thought, Sir, that the Legal Adviser to the Government of Cochin will follow the sponsor. He, however, did not think it necessary to do so. I am not complaining. My anticipations are not realised. I am only saying that. I thought that there will be other members to precede me either to support the Government measure or to oppose it. There also, I am disappointed. But still disappointed I am not, and I am on my legs to oppose this mischievous measure. I feel it to be my duty and I shall discharge it.

The Objects and Reasons of the Bill Sir, in the second line of the Printed book straightaway refers to the developments in Anthikad. That one solitary factor, Sir, takes the case for the Bill out of the regions of reasonableness for the measure and the necessity for the same. I shall develop that point later. It is stated, Sir, that the developments in Anthikad which were the subject-matter of a question today which was answered by a blue book being placed on the table, led to the promulgation of the Criminal Law (Amendment) Act (Act XVIII of 1122). Now, Sir, when we are at it, with due deference to all concerned I must submit, that the year 1122, the year on the first day of which we were given the gracious message leading us further on the road of responsible Government, almost reaching the goal of full responsible Government That gracious year, Sir, is marked, unfortunately marked by the largest number of enactments promulgated under the special powers of His Highness the Maharaja. I do not wish to dilate upon that. The Gazettes of the country will show that. Further on, it is stated, Sir, that even that Act is not seen sufficient and so an improvement upon that is thought necessary and in the penultimate paragraph of the Objects and Reasons, you find, section 15 of the Criminal Law (Amendment) Act XVIII/22 attempted to be improved upon and made more mischievous. For, this is what is stated in the statement of Objects and Reasons:—"To prevent circulation of such publications by other means—Post and Anchal—Clause 15 of the Bill has been slightly amended". It is further stated that this amending Bill is "mainly an adaptation of the Madras Maintenance of Public Order Act and the Indian Press Emergency Powers Act".

The above statement would suggest that the above enactments one Provincial and the other All India are two innocent pieces of legislation and what is attempted here is only to have those two introduced in Cochin with necessary modifications. But is that really so? To that I shall come later.

Now, Sir, if really the Anthikad situation demanded action and action of drastic nature and for that an enactment was necessary to be promulgated, I do not, for a moment, think, Sir, that there will be anybody in Cochin who will say that what is necessary to be done in that behalf should not have been done and cannot be done. But only enough and for the time being only, such things could be done. If a situation arises, either at Anthikad or at any other place which demands drastic immediate action, which cannot be had under the existing enactments of the State, powers will have to be taken by the Government. But I do say, Sir, all this with a big 'if' as big as I can make it, if such a situation arises, necessarily therefore any Government which have got pretensions to be called a Government will have to do it. I have no quarrel. But there is the big 'if'. The Anthikad situation has been met by the Proclamation Act whether there was justification for its promulgation or not.

Now, the attempt through this Bill is to get the promulgated Act, strengthened by the impremature of this House's assent on it. True, that is a consideration shown to this House What was considered as an emergency measure and was therefore promulgated as Act XVIII/22, I am glad, Sir, is placed before this House to have its assent on it. But Sir, the attitude of the sponsor of the Bill and the silence that followed the forced out explanation of the Chief Secretary would show that this House has simply to say 'aye' to the Government move. What Sir, is the duty of this Council when an Act like the Act XVIII/22 promulgated under the circumstances mentioned and improved upon, that is, made more drastic, asis done in this Bill, is placed before this House for its consideration? What is the attitude to be adopted by the House is the question. The presumption, Sir, is that this House consists of the representatives of the people of the State. That is the presumption, and I am sure, Sir, it will not be denied. My statement will not be contradicted, that at least a section of the

LIBRARY ARCHIVES Kerala Legislative Assembly

members of this House, can legitimately say that they do represent the public in a limited sense, because this House, I am glad to note, Sir, had in its early days a body which faced the electorates with a plan, with a programme, with its assurances given to the electorate as to what they would do in the Council if they are returned. They can very well say that they represent the public. The others are sitting in this House also representing the public in various ways. I shall not, however, detail the ways. Now, to a House composed of representatives of the people as above described, I seriously ask the question whether this is the measure to which the House should say 'Aye' and 'Amen', or whether it is a measure which we should resent and throw out without even allowing it to be sent to a Select Committee whose function is only to improve upon it, to chisel it and make it a presentable one, if the principle of the Bill is acceptable to the House.

But to whom Sir, is my appeal to be addressed. Evidently not to the Ministerialist block, because the Bill, is assuredly a gift of the Ministry to the public. The appeal can only be to the opposition whose benches unfortunately are very nearly empty. The Leader of the Opposition has been conspicuous by his absence most of these days. His supporters, a few of them present in the morning do not turn up in the evening. Now there are only two Hon'ble Members of the Opposition present in this House. And the Deputy Leader, I understand, Sir, has sent up his resignation, the only right thing to do for one having any self respect.

Mr. President: That has nothing to do with the Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I am glad for that information But, Sir, my appeal, as I said before, can be only to the Opposition, but unfortunately it is as I just now described. Hence that is relevant.

Mr. M. K. Raja *(Mulakunnathukavu):* What did he resign? Is it the membership in the party or the Deputy Leadership?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Mr. President, I will supply that information to my young friend this evening at our dinner table.

I was asking, Sir, When such a Bill containing these provisions is placed before this House by the Hon'ble Chief Secretary, what is our duty? According to me, Sir, our duty I may be wrong, but I honestly believe that the duty of every Member who has got any slightest pretensions to represent any section of the people in Cochin, must be to oppose it and give it the treatment that it deserves, i.e., to throw it out, if possible; if that is not achievable, to register its emphatic and unanimous protest against the measure. I am sure that I will not have much of a company in this endeavour of mine. But that does not matter.

What is stated in the Bill? The statement of Objects and Reasons, I have already referred to. More will be dangerous because then I will have to find fault in various ways. In the statement of objects and reasons accompanying this Bill we find Kings English being murdered. It may of course be murdered in the present context. Now let us examine the important provisions of the Bill. Let us begin with the preamble. "Whereas for the maintenance of public safety and to prevent and to put down disorders involving menace to the peace and tranquillity of the State, it is considered necessary to provide for the prohibition of certain associations and for the control of the printing, publication, etc., of certain prejudicial matters; it is hereby enacted as follows":—I ask, Sir, whether the existing circumstances justify the preamble as worded. I say, 'No' in answer.

It is said, Sir, that the whole Bill is based upon Press Emergency Powers Act (Act XXIII of 1931) which is still current in British India, as also the latest achievement of the Madras Ministry in that particular Act (Act I of 1947), the Madras Maintenance of Public Order Act. This Bill is said to be "mainly an adaptation of the Madras Maintenance of Public Order Act and Indian Press Emergency Powers Act". But, unfortunately, Sir, our Bill is not even a correct copy of the above two enactments; not that a correct copy either of the Central Indian Act or the Provincial Act is going to be a reason why it should pass muster here, but even that is not attempted in the Bill. I submit, Sir, that this Bill is, to put it in a nut shell, an epitome of all repressive measures anywhere seen on the globe. Our Government, our Ministerial Government the Cabinet, can well feel proud of its achievements. This statement of mine is amply borne out by the exposition made by the sponsor of the Bill. He stated that portions are borrowed from the Press Emergency Act of 1931, please mark the words "Press Emergency

LIBRARY ARCHIVES Kerala Legislative Assembly

[Mr. P. Kumaran Ezhuthassan]

Act of 1931", and the other Act to which I have already referred. The Chief Secretary said, Sir, that certain things have been borrowed from the Defence of India Rules promulgated by our Government and other Governments during the days of war to meet the peculiar situation of war. Now, therefore, I feel I am right in saying that the Bill before the House is an epitome of all repressive laws both existing formerly here and in India or elsewhere. Now should we have this is the question.

Now the attempt is to suppress everything which the executive Government of the day consider to be not in the interest of the Public tranquillity, whether it be an association, or a paper, or both or any activity. They take power through this enactment to have every association declared unlawful with the consequences that follow from being members of an unlawful association as described here in contradistinction to similar associations under the law of the land, then dealing with the properties connected with such associations and then with regard to activities of the Press the printing Press the newspaper and the news. The attempt, Sir, is to suppress everything. The boast was made the other day that there was not even a single repressive measure in the Statute Book of Cochin and it was said, Sir, that with the advent of the Government of the day the last vestige of barbarism and tyranny over the Press, namely the Press Act of Cochin, was also got repealed. Rightly did the spokesmen of the Government of that day take pride in all that. But, is it a fact, is the Press Act really and in effect repealed, or do we get as a matter of fact the benefits of the repeal of the Press Act by the responsible Government of the day? Is not the Bill an attempt to re-introduce some of the provisions of the repealed Act and that in a worse form and to a greater extent? That, Sir, is the question.

I submit, Sir, that there is no use of saying that the Press which was on the Statute Book for about 12 years—I believe it was in 1110 or 1111 that it was put on the Statute Book—is repealed by the present Government. True, it has been taken away. It will no more find a place in the Statute book of Cochin. But its provisions are attempted to be reintroduced as admitted by the Hon'ble Chief Secretary. So, what is your boast? How can you make that boast? And even when you made that boast this measure was before the Council. We were in possession of the copies of this Bill long before that date; atleast, please do not make any such empty boasts when they do not tally with the actualities and realities obtaining.

Now, Sir, let us look into the provisions for a while. In the definition clause that is, section 2 of the Bill, "association" is defined. It is said association means any combination or body of persons whether the same is known by any distinctive name or not. Now, 'associations or 'unlawful association' is a very well known term in Criminal law. In the Penal Code, it is defined and the punishment for being members of an unlawful association is there and that was working in the State for long. The law has not been found wanting to deal with cases of persons who form members of an unlawful association. Now, distinct and different from the definition of unlawful association in the Penal Code, in the existing enactments of the State, a new definition of unlawful association is introduced in this measure.

Rao Sahib A. Madhava Prabhu *(Chief Secretary to Government):* Unlawful assembly -യും unlawful association-നും തമ്മിൽ വ്യത്യാസമില്ലെന്നാണോ ബഹുമാനപ്പെട്ട മെമ്പർ പറയുന്നത്?

മിസ്റ്റർ പി. കുമാരനെഴുത്തച്ഛൻ: ഞാൻ അങ്ങിനെ പറയുകയുണ്ടായോ?

റാവുസാഹിബ് എ. മാധവപ്രഭു: ഈ പറഞ്ഞതിൽനിന്ന് അങ്ങിനെയാണ് മനസ്സിലായത്.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* Well Sir, therein comes the trick of the lawyer which the Chief Secretary formerly was. I leave it at that. The definition of 'association' as given in this Bill is something which cannot be accepted. It is stated 'association' means any combination of body or persons, whether the same be known by a distinctive name or not.

Now, of course, if a single man does anything he escapes punishment, because he will not come under the term 'association'. 'Association' naturally means a body of persons, at least 2 persons are necessary. So, if I sit in my chair and think out certain things I cannot come under the provisions of this measure. That indeed is a relief.

Mr. Puthur Achutya Menon *(Kattur):* He will come under so many other provisions in the Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri):* I have not come across any such yet, Sir, I am glad that my Hon'ble friend pointed out that there are other provisions. Here 'association'

LIBRARY ARCHIVES Kerala Legislative Assembly

is different. That defintion of 'association' is followed by the difinition of 'unlawful association'. Anything, anybody and everybody who for reason or no reason, not in the good books of the executive Government for the time being, can be brought under this definition. In other words, through these two definitions which are the basis of subsequent developments in the enactments, one who is not in the good books, who is not in favour of the Government, who, for anything done by him or expressed by him has had the misfortune or the good fortune to incur the displeasure of the authorities of the day, or the executive Government of the day, goes under that and can be punished.

It is too much to expect this House or the representatives of the people to say, "Yes," to this. If you expect it, Sir, you are expecting too much indeed, or you are expecting it because of the brutal strength which is willy nilly yours for the time being. Beyond that, no Government which has got pretensions of any civilisation can afford to come forward with a Bill of this sort in a House of Legislature. Probably the reason of your boldness is the fact that you are strong, strong numerically. But strength as I once stated before, should not be used like a tyrant. It is excellent to have a giant's strength. But to use it like a giant is dangerous, is barbarous, the more so, when it is tyrannously used. Then it loses its value or meaning.

Then, we come to section 3. It reads as follows:—"If Government are of opinion that any association interferes or has for its objects interference with administration of the law or with the maintenace of law and order or that it constitutes a danger to the public peace Government may by Notification in the Cochin Government Gazette declare such associations to be unlawful." Section 4 deals with the penalty for being members of an unlawful association while section 6 lays down that the properties of such an association can be forfeited to Government. Now, Sir, where are we? Where is the safety for the citizens of Cochin under the present responsible Government of the day? That is a question for them to answer and satisfy the public of Cochin. The masses of Cochin, let it be understood, Sir, are not constituted by them alone. There is a public of Cochin outside this House and outside the Ministerialist block (hear, hear).

I am glad, Sir, it is noted. There is a public in Cochin outside this House and you will be judged by them.

Mr. P. Govinda Menon *(Minister for Food and Education)*: Hear, Hear.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I know, you are there and I tell the interrupter that he is the culprit responsible for this Bill. That is the position that I am going to develop in another five minutes, Sir.

Mr. President: Is the Hon'ble member finishing it today?

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: I may not be able to finish it before 5.

Mr. P. Govinda Menon *(Minister for Food and Education)*: He may take ten minutes.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Sir, my friend is a poor prophet. I will take not less than an hour. I was on Clause 3. Now Sir, what exactly is this.

Mr. Puthur Achyuta Menon *(Kaltur)*: It is a Bill.

Mr. P. Kumaran Ezhuthassan *(Vadakkancheri)*: Sir, it is said it is a Bill and I am on Clause 3 of that Bill. "If Government are of opinion"—well can you think of such a Bill—if the Government in their wisdom or the negation of it, which also is possible, think that some association as described above is engaged in activities mentioned in that section, they can immediatly declare it unlawful. Is there saftey for the public of Cochin in this Bill is the question.

റാവു ബഹദൂർ ടി. കെ. നായർ: ഉണ്ട്.

മിസ്റ്റർ. പി. കുമാരനെഴുത്തച്ഛൻ.: ഇല്ല എന്നു ഞാൻ പറയുന്നു.

Now, Sir, we are at the mercy or the whims and fancies of the executive Government of the day. Are you going to be consenting parties to subject yourself to the whims and fancies of the party Government from time to time is the question that I put before every member of this House. I am not particularly speaking, Sir, of the Government of the day. That is a fixture that will repeat itself if not in this form in another form, which we have created and which we want to develop and improve. The party system of Government will be a permanent fixture in Cochin. Slight improvements at betterment alone have to be achieved which, God willing, we may hear day after to-morrow.

The House rose for the day at 5 p.m.

P. NARAYANA SWAMY
Secretary to the Council

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8. On the balance of total income .. 8 annas in in the rupee

* * * * * * *

B. In the case of every local authority.—
On the whole of total income .. 1 anna 6 pies in the rupee

C. In the case of an association of persons being a Co-operative Society, for the time being registered under the Co-operative Societies Act, XXVI of 1113.—
1. On the first Rs. 25,000 of total income .. Nil
2. On the balance of total income .. One anna six pies in the rupee

D. In the case of every company.—
On the whole of total income .. One anna 6 pies in the rupee

APPENDIX XII

THE COCHIN CRIMINAL LAW AMENDMENT BILL

Preamble.—WHEREAS for the maintenance of public safety and to prevent and put down disorders involving menace to the peace and tranquillity of the State, it is considered necessary to provide for the prohibition of certain associations and for the control of the printing, publication, etc., of certain prejudicial matters; It is hereby enacted as follows.—

Short title, extent and commencement.—1. (1) This Act may be called the Cochin Criminal Law Amendment Act, of 112.

(2) It extends to the whole of Cochin State.

(3) It shall come into force at once.

2. In this Act—

Definitions.—(1) "association" means any combination or body of persons, whether the same be known by any distinctive name or not; and

(2) "unlawful association" means an association—

(*a*) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts, or

(*b*) which has been declared to be unlawful by Government under the powers hereby conferred.

3. *Power to declare association unlawful.*—If Government are of opinion that any association interferes or has for its object interference with the administration of the law or with the maintenance of law and order, or that it constitutes a danger to the public peace, Government may, by notification in the Cochin Government Gazette, declare such association to be unlawful.

4. *Penalties.*—(1) Whoever is a member of an unlawful association, or takes part in meetings of any such association, or contributes or receives or solicits any contribution for the purpose of any such association, or in any way assists the operations of any such association, shall be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

(2) Whoever manages or assists in the management of an unlawful association, or assists in promoting a meeting of any such association, or of any members thereof as such members, shall be punished with imprisonment for a tern which may extend to three years, or with fine, or with both.

(3) An offence under-sub-section (1) shall be cognizable by the Police and notwithstanding anything contained in the Code of Criminal Procedure, II of 1086, shall be non-bailable.

5. *Power to notify and take possession of places used for the purposes of an unlawful association.*—(1) Government may, by notification in the Cochin Government Gazette, notify any place which in their opinion is used for the purposes of an unlawful association.

Explanation.—For the purposes of this section "place" includes a house or building, or part thereof, or a tent or vessel.

(2) The District Magistrate or any officer authorised by him in this behalf in writing may thereupon take possession of the notified place and evict therefrom any person found therein, and shall forthwith make a report of the taking possession to Government.

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Provided that where such place contains any apartment occupied by women or children, reasonable time and facilities shall be afforded for their withdrawal with the least possible inconvenience.

(3) A notified place whereof possession is taken under sub-section (2) shall be deemed to remain in the possession of Government ao long as the notification under sub-section (1) in respect thereon remains in force.

6. *Movable property found in a notified place.*—(1) The District Magistrate or officer taking possession of a notified place shall also take possession of all moveable property found therein and shall make a list thereof in the presence of to respectable witnesses.

(2) If, in the opinion of the District Magistrate, any articles specified in the list are or may be used for the purposes of the unlawful association he may proceed subject to the provisions hereinafter contained in this section to order such articles two be forfeited to Government.

(3) All other articles specified in the list shall be delivered to the person whom he considers to be entitled to possession thereof, or if no such person is found, shall be disposed of in such manner as the District Magistrate may direct.

(4) The District Magistrate shall publish, as nearly as may be in the manner provided in section 72 of the Code of Criminal Procedure, II of 1086, for the publication of a proclamation, a notice specifying the articles which it is proposed to forfeit and calling upon any person claiming that any article is not liable to forfeiture to submit in writing within fifteen days any representation he desires to make against the forfeiture of the article.

(5) Where any such representation is accepted by the Dirtrict Magistrate he shall deal with the article concerned in accordance with the provisions of sub-section (3).

(6) Where any such representation is rejected, the representation, with the decision thereon, shall be forwarded to the District Judge, within whose jurisdiction the notified place is situate and no order of forfeiture shall be made until the District Judge has adjudicated upon the representation. Where the decision is not confirmed the articles shall be dealt with in accordance with the provisions of sub-section (3).

(7) In making an adjudication under sub-section (6) the procedure to be followed shall be the procedure laid down in the Cochin Code of Civil Procedure, XXIX of 1111, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge shall be final.

(8) If the article seized is livestock or is of a perishable nature, the District Magistrate may, if he thinks it expedient, order the immediate sale thereof. and the proceeds of the sale shall be disposed of in the manner herein provided for the disposal of other articles.

7. *Trespass upon notified place.*—Any person who enters or remains upon a notified place without the permission of the District Magistrate or of an officer authorised by him in this behalf, shall be deemed to commit criminal trespass.

8. *The relinquishment of property.*—Before a notification under sub-section (1) of section 5 is cancelled, Government shall give such general or special directions as they may deem requisite regulating the relinquishment by Government of possession of notified places.

9. *Power to forfeit property of an unlawsul association.*—(1) Where Government are satisfied, after such inquiry as they may think fit, that any monies, securities or credits are being used or are intended to be used for the purposes of an unlawful association, Government may, by order in writing, declare such monies, securities or credits to be forfeited to Government.

(2) A copy of an order under sub-section (1) may be served on the person having custody of the monies, securities or credits, and on the service of such copy such person shall pay or deliver the monies, securities or credits to the order of Government;

Provided that, in the case of monies, securities, a copy of the order may be endorsed for execution to such officer as Government may select. and such offier shall have power to enter upon and search for such monies and securities in any permises where they may reasonably be suspected to be, and to seize the same.

(3) Before an order of forfeiture is made under sub-section(1)Government shall give written notice to the person (if any) in whose custody the monies. securities or credits are found of their intention to forfeit, and any person aggrieved thereby may within fifteen days from the issue of such notice file an application to the District Judge within whose jurisdiction such person resides to establish that the monies, securities or credits or any of them are not liable to forfeiture, and if any such application is made, no order of forfeiture shall be passed in respect of the monies

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securities or credits concerned until such application has been disposed of, and unless the District Judge has decided that the monies, securies or credits are liable to forfeiture.

(4) In disposing of an application under sub-section (3) the procedure to be followed shall be the procedure laid down in the Cochin Code of Civil Procedure, XXIX of 1111, for the investigation of claims so far as it can be made to apply, and the decision of the District Judge shall be final.

(5) Where Government have reason to believe that any person has custody of any monies, securities or credits which are being used or are intended to be used for the purposes of an unlawful association, Government may, by order in writing, prohibit such person from paying, delivering, transferring or otherwise dealing in any manner whatsoever with the same, save in accordance with the written orders of Government. A copy of such order shall be served upon the person to whom it is directed.

(6) Government may endorse a copy of an order under sub-section (5) for investigation to any officer they may select, and such copy shall be warrant whereunder such officer may enter upon any premises of the person to whom the order is directed, examine the books of such person, search for monies and securities, and make inquiries from such person, or any officer, agent or servant of such person, touching the origin of and dealing in any monies, securities or credits which the investigating officer may suspect are being used or are intended to be used for the purposes of an unlawful association.

(7) A copy of an order under this section may be served in the manner provided in the Code of Criminal Procedure, II of 1086, for the service of a summons, or, where the person to be served is a corporation, company, bank or association of persons, it may be served on any secretary, director or other officer or person concerned with the management thereof, or by leaving it or sending it by post addressed to the corporation, company, bank or association at its registered office, or, where there is no registered office, at the place where it carries on business.

(8) Where an order of forfeiture is made under sub-section (1) in respect of any monies, securities or credits in respect of which a prohibitory order has been made under sub-section (5) such order of forfeiture shall have effect from the date of the prohibitory order, and the person to whom the prohibitory order was directed shall pay or deliver the whole of the monies, securities, or credits forfeited, to the order of Government.

(9) Where any person liable under this section to pay or deliver any monies, securities or credits to the order of Government refuses or fails to comply with any direction of Government in this behalf, Government may recover from such person, as arrears of land revenue or as a fine, the amount of such monies or credits or the maket value of such securities.

(10) In this section, "security" includes a document whereby any person acknowledges that he is under a legal liability to pay money, or whereunder any person abtains a legal right to the payment of money; and the market value of any security means the value as fixed by any officer or person deputed by Government in this behalf.

(11) Except so far as is necessary for the purpose of any proceeding under this section, no information obtained in the course of any invertigation made under sub-section (6) shall be divulged by any officer of Government, with the consent of Government.

10. *Jurisdiction barred.*—Every report of the taking possession of property and every declaration of forfeiture made, or purporting to be made, under this Act, shall, as against all persons be conclusive proof that the property specified therein has been taken possession of by Government or has been forfeited, as the case may be, and save as provided in section, 6 and 9 no proceeding purporting to be taken under sections 5, 6, 7, 8 or 9 shall be called in question by any Court, and no civil or criminal proceeding shall be instituted against any person for anything in good faith done or intended to be done under the said sections or against Government or any person acting on any behalf of or by authority of Government for any loss or damage caused to or in respect of any property whereof possession has been taken by Government under this Act.

11. *Continuance of association.*—An association shall not be deemed to have ceased to exist by reason only of any formal act of dissolution or change of title, but shall be deemed to continue so long as any actual combination for the purposes of such association continues between any members thereof.

12. *Power to declare certain publications forfeited to Government.*—Where any newspaper, book or other document wherever made appears to Government to contain any words, signs or visible representations which—

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(*a*) incite to or encourage, or tend to incite to or to encourage, the commission of any offence of murder or any cognizable offence involving violence, or

(*b*) directly or indirectly express approval or admiration of any such offence, or of any person, real or fictitious, who has committed or is alleged or represented to have committed any such offence,

or which tend, directly or indirectly—

(*c*) to seduce any officer, or any member in the Cochin State Forces, or any officer, soldier, sailor or airman in the military, naval or air forces of His Majesty or any police officer from his allegiance or his duty, or

(*d*) to bring into hatred or contempt His Highness the Maharaja of Cochin or the Government of His Highness the Maharaja or His Majesty the King Emperor of India or the Government established by law in British India, or

(*e*) to put any person in fear or to cause annoyance to him and thereby induce him to deliver to any person, any property or valuable security or to do any act which he is not legally bound to do, or to omit to do any act which he is legally entitled to do, or

(*f*) to encourage or incite any person to interfere with the administration of the law or with the maintenance of law and order, or to commit any offence, or to refuse or defer payment of any land revenue, tax, rate, cess or other dues or amount payable to Government or to any local authority or any dues recoverable as arrears of public revenue under any law for the time being in force or any rent of agricultural land or anything recoverable as arrears of or along with such rent, or

(*g*) to induce a public servant or a servant of a local authority to do any act or to forbear or delay to do any act connected with the exercise of his public functions or to resign his office, or

(*h*) to promote feelings of enmity or hatred between the several classes of people in Cochin, or

(*i*) to assist in any way the operation of an unlawful association,

Government may by notification in the Cochin Government Gazette declare every copy of the issue of the newspaper and every copy of such book or other document to be forfeited to Government.

13. *Power to search and seize.*—Where Government have declared any issue of any newspaper, book or other document to be forfeited to Government under section 12, any Police Officer may seize the same wherever found in Cochin and any Magistrate may by warrant authorise any police officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such book or other document may be or may be reasonably suspected to be.

14. *Power to detain packages containing certain publications.*—The Chief Customs Officer or any officer authorised by Government in this behalf may detain any package brought, whether by land, sea or air, into Cochin which he suspects to contain newspapers, books or other documents of the nature described in section 12 and shall forthwith forward copies of any newspapers, books or other documents found therein to such officer as Government may appoint in this behalf to be disposed of in such manner as Government may direct.

15. *Prohibition of transmission by Anchal of certain documents.*—No newspaper, book or other document declared under section 12 to be forfeited shall be transmitted by Post or Anchal or in any other manner.

16. *Power to impose censorship.*—(1) Government may, for the purpose of securing public safety, or the maintenance of public order, by order addressed to a printer, publisher, or editor or to printers, publishers and editors generally—

(*a*) require that all matter, or any matter relating to a particular subject or class of subjects, shall, before being published in any newspaper, book or other document, be submitted to an authority specified in the order;

(*b*) prohibit or regulate the making or publishing of any newspaper, book or other document, or of any matter relating to a particular subject or class of subjects or the use of any press as defined in the Cochin Press and Registration of Books Act, VII of 1097.

(2) Where any matter has been required to be submitted to an authority before being published under clause (*a*) of sub-section (1), such authority may delete, destroy or remove any part thereof which such authority considers to be prejudicial to the public safety or the maintenance of public order and the printer, publisher or editor, as the case may be, to whom

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the order has been addressed shall not publish such matter except with the permission in writing of such authority and in such form as may be approved by him.

(3) If any person contravenes any order made under sub-section (1) or (2), then, without prejudice to any other proceedings which may be taken against such person, Government may, by notification in the Cochin Government Gazette, declare any copy of the issue of the newspaper and every copy of the book or other document published or made in contravention of such order, to be forfeited to Government.

17. *Power to prohibit, import, etc., of certain documents.*—Government may for the purpose of securing the public safety or the maintenance of public order by notification published in the Cochin Government Gazette prohibit the import into Cochin State or the printing, sale, publication, circulation, distribution or possession in the Cochin State of any newspaper, book or other document.

18. *Punishment for contravention of section 15, etc.*—If any person contravenes section 15 or any order made under section 17, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

19. *Surrender of objectionable documents etc.*—(1) Whoever is in possession of any issue of a newspaper, book or other document declared to be forfeited under section 12, or the import, printing, sale, publication, circulation, distribution or possession of which has been prohibited under section 17, knowing it to be so declared or prohibited, shall forthwith surrender it to the officer in charge of the nearest Police Station.

(2) Whoever contravenes the provisions of sub-section (1) of this section shall on conviction by a Magistrate, be punished with fine not exceeding one hundred rupees in respect of each copy of such issue in his possession.

20. *Application of other laws not barred.*—The provisions of this Act shall be in addition to and not in derogation of any other enactment for the time being in force.

21. *Power to try offences under this Act.*—Notwithstanding anything contained in the Code of Criminal Procedure, II of 1086, no Court inferior to that of a Magistrate of the first class shall try any offence under this Act.

22. *Repeal and saving.*—(1) The Cochin Criminal Law Amendment Act, XVIII of 1122, is hereby repealed.

(2) Notwithstanding such repeal, all orders made, notifications issued, directions given, things done and action taken under the said Act, shall be deemed to have been made, issued, given, done or taken under the provisions of this Act as if this Act had come into force on the 20th day of Edavam 1122, corresponding to the 3rd day of June 1947, references to the said Act shall be construed as references to this Act, and offences committed against or proceedings commenced under the said Act may be punished or may be continued and completed as if such offences were committed against or such proceedings were commenced under this Act.

Statement of Objects and Reasons

To meet effectively with the situation as it developed in Anthikad and with a view to maintain peace and order it became necessary to promulgate the Cochin Criminal Law Amendment Act, XVIII of 1122. That Act empowers Government to declare any association which interferes or has for its object interference with the administration of law or the maintenance of law and order to be an unlawful association. Power has also been taken to forfeit seditious publications and those which incite violence or interfere with the maintenance of law and order. Since some of such publications are published outside and imported into the State, necessary provision had also to be made to prevent their import and circulation in the State. The Act is mainly an adaptation of the Madras Maintenance of Public Order Act and the Indian Press Emergency Powers Act.

It is proposed to replace the Act by a Bill passed through the Legislature. The Bill differs from the Act mainly in two respects. Section 15 of the Criminal Law Amendment Act prohibits only transmission of forfeited publications by Post or Anchal and not by other means. To prevent circulation of such publications by other means clause 15 of the Bill has been slightly modified.

It is considered that a provision for pre-censorship of matter relating to specified subjects may enable Government to dispense with the need to have recourse to the more drastic step of forfeiting newspapers or prohibiting their publication and circulation. Provision has, therefore, been made for the scrutiny and censorship of articles of such subjects as Government think would endanger public safety.

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